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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/406,353	09/28/1999	TOM GIAMMARESSI	533/044	1515

26291 7590 07/29/2003

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EXAMINER

SENFİ, BEHROOZ M

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 07/29/2003

72

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/406,353

**Applicant(s)**

GIAMMARESSI, TOM

**Examiner**

Behrooz Senfi

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17 - 44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17 - 44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Response to Amendment***

1. The amendment filed on May 12, 2003 (paper no. 11) under 37 CFR 1.131 has been considered but is ineffective to overcome the Ravi et al. (US 6,292,834) reference.

The additional features added to independent claims 17 and 30 does not change the scope of previous rejection.

Claims 1 – 16 has been canceled.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 17 – 19 and 30 – 31, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravi et al. (US 6,292,834).

Regarding claims 17 and 30, Ravi '834 discloses the claimed "video on demand Distribution System" (i.e. fig. 2), comprising "provider equipment for providing VOD" (i.e. fig. 2, server 220), and the claimed "subscriber equipment requesting the VOD content via a back channel" (i.e. fig. 2, client 240) and forward and backward channel (reads on fig. 2, bi-directional or double sided arrows), and step of "determining whether the VOD distribution system has sufficient bandwidth available to provide VOD content to subscriber and providing in the event of appropriate bandwidth availability, the requested VOD content to subscriber using content encoded in a manner adapted to utilize the appropriate bandwidth , and providing VOD

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content to subscriber in the event of minimum bandwidth availability using content encoded in a manner adapted to utilize minimum bandwidth” reads on (i.e. fig. 4, and figs. 5a – 5e, abstract, lines 5 – 12, and col. 6, lines 64 - 67) where discloses dynamically adjust the transmission rate of the VOD to optimize usage of the bandwidth (utilize the appropriate bandwidth), and interface circuit (fig. 1, 112) is used to send and receive information and is coupled to the information server.

Ravi ‘834 fails to explicitly teach the claimed “minimum bandwidth availability .....”.

However, Ravi ‘834 teaches efficient VOD transmission and dynamically adjust/matched the transmission rate of the VOD to optimize usage of the bandwidth (utilize the appropriate bandwidth) as discussed above. It would have been obvious to one having ordinary skill in the art to realize that the bandwidth is limited and at some point would have the minimum bandwidth and at some point the maximum bandwidth threshold.

Regarding claims 18 – 19, the claim limitation “waiting for bandwidth availability and repeating the steps of providing VOD content” reads on (figs. 4, and 5a – 5e), determination of sufficient bandwidth and adjustment, for requested information, therefore the step of repeating (iteration) would be necessary.

Regarding claim 31, the limitations claimed are substantially similar to claims 17, 18 and 30; therefore the grounds for rejecting claims 17, 18 and 30 also apply here.

4. Claims 20 – 24, 26 – 28, 32 – 38, 40 – 42 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravi et al. (US 6,292,834) in view of Brown (US 5,822,530).

Regarding claim 20, Ravi ‘834 teaches video on demand distribution

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System, and provider equipment for providing VOD (i.e. fig. 2, server 220), and subscriber equipment (i.e. fig. 2, client 240), and adjust bandwidth based on the VOD content (fig. 4). Ravi '834 fails to explicitly teach the claimed "denying step".

However, Brown '530 (col. 7, lines 17+) teaches denying the request presentation.

In view of the above, it would have been obvious to one having ordinary skill in the art to modify the system of Ravi '834, as taught by Brown '530 to improve reliable and efficient transmission techniques (col. 2, lines 64 – 67).

Regarding claims 21, 26 – 27, 32 and 40 - 41, combination of Ravi '834 and Brown '530 teaches bandwidth determination made with respect to at least one of video server bandwidth, video switch bandwidth, transport processor and digital video modulator bandwidth would have been obvious (i.e. col. 7, lines 8+ of Brown '530), and information type comprises one of video, audio (fig. 3, video/audio of Ravi '834), and component loading levels are determined with respect to the type of information requested, reads on col. 7, lines 8+ of Brown '530, since the reference teaches variable bandwidth for transmission base on the type of information requested.

Regarding claims 22 - 23, and 36 - 37, combination of Ravi '834 and Brown '530 teaches the variable bandwidth and adjustment to support navigation (fig. 4, of Ravi), and storing information reads on (fig. 1 of Ravi).

Regarding claims 24 and 38, combination of Ravi '834 and Brown '530 teaches the BW-threshold and adjusting to avoid quality degrading (fig. 4, and fig. 5e of Ravi).

Regarding claims 28 and 42, combination of Ravi '834 and Brown '530 teaches video formats having differing quality levels (i.e. col. 1, lines 20+ of Brown '530).

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Regarding claim 33, combination of Ravi '834 and Brown '530 teaches transport processor for packetizing information (fig. 2, col. 5, lines 43+ of Ravi).

Regarding claim 35, combination of Ravi '834 and Brown '530 teaches digital video modulator (fig. 1, 116, col. 4, lines 43+ of Ravi).

Regarding claim 44, combination of Ravi '834 and Brown '530 teaches communication system and storage, that includes information distribution and transmission to client base on the requested information, and providing variable bandwidth (figs. 1, 2, and 4, and abstract of Ravi), therefore it would have been obvious that the variable bandwidth depends on different encoded bit rate that depends on subscriber request.

5. Claims 25, 29, 39 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravi et al. in view of Brown (US 5,822,530) further in view of Hang (US 5,115,309).

Regarding claims 25, 29, 39 and 43, combination of Ravi '834 and Brown '530 teaches BW-threshold and adjusting based on client request to avoid quality degrading (fig. 4, and fig. 5e of Ravi).

Combination of Ravi '834 and Brown '530 fails to teach control bandwidth utilization levels.

However, the above claimed limitations are well-known in the art as evidenced by Hang '309, in particular (i.e. fig. 1, col. 1, lines 8+) teaches channel allocation to control bandwidth based upon expected component.

In view of the above, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the combination system of Ravi '834 and Brown '530, as taught by Hang '309 for improving the system.

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***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Behrooz Senfi** whose telephone number is **(703)305-0132**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Chris Kelley** can be reached on **(703)305-4856**.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**Or faxed to:**

**(703) 872-9314**


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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relative to the status of the application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

B.S. B. S.

07/25/2003

  
CHRIS KELLEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600